

Public Leadership Solutions For Energy (PULSE)

FREQUENTLY ASKED QUESTIONS -- September 12, 2002

*** Indicates new question.**

Eligibility

What types of technologies are eligible?

- Energy efficiency measures (including advanced metering and controls, thermal storage, cool roofs, daylighting, etc); clean or renewable distributed generation (including solar PV, biogas and landfill gas recovery, fuel cells, combined heat and power); and incremental costs of exceeding Title 24 building energy standards.

***Is there any required mix of energy efficiency measures versus distributed generation?**

- No.

Which types of agencies are eligible?

- Most public agencies, including cities, counties, school districts, community college districts, water districts and special districts.

***Can federal agencies borrow through PULSE?**

- Federal agencies are not authorized to take advantage of tax-exempt financing; this particular pool is a tax-exempt financing. We may set up another fund in 2003 that would enable federal agencies and other taxable entities to utilize CPA financing mechanisms.

***Can State agencies borrow through PULSE?**

- Most State agencies and departments can utilize lease financing through PULSE, subject to receiving all normal approvals. Additionally, certain entities, which are not subject to State constitutional debt limits, may elect to utilize either loan or lease financing.

***Are municipal utilities eligible for PULSE?**

- This is a use of funds issue, and the key consideration is who uses the project or energy production. If the borrower is selling energy output from a cogeneration facility - for instance, to private customers - the answer is no. If the project's benefits or energy output are dedicated to public facilities, and the utility owns the transmission & distribution lines delivering the energy, PULSE financing can be used to sell energy output to public entities.

Can we make loans to Joint Powers Authorities?

- Yes.

Can private entities borrow on behalf of public agencies?

- Not through this tax-exempt financing program. The CPA may develop a "third-party" financing program for private borrowers in 2003.

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Can we make loans to 501 (c) 3 organizations?

- Yes, although the CPA will require that the 501 (c) 3 corporation's legal counsel provide a statement attesting to that tax-exempt status. With loans, the cost of issuance of the bonds payable from bond proceeds, is limited to 2% of the bond proceeds. A public hearing will also be required.

Is a project refinancing eligible for PULSE funding?

- A refinancing is permitted so long as the facility is needed and the power sold at cost within the State.

Are energy facilities' refurbishments eligible for PULSE funding?

- The CPA may finance improvements so long as the primary purpose of the financing is for energy efficiency or renewable energy projects. The CPA will not finance routine repairs to the building or other renovations not directly related and integral to the installation of energy efficiency or renewable energy equipment.

Is there an upper limit to the amount to be borrowed? Can projects be grouped together?

- There is no upper limit, however projects should be \$2 million and above, per borrower, per issuance. A portfolio of projects can be assembled under the umbrella of a single borrower.

Why is there a \$2 million floor?

- PULSE is designed to address payback and financing limitations of other State energy funding programs, at least one of which has a \$2 million maximum per project. An additional goal, for the self-supporting PULSE program, is to achieve savings on the costs of issuance, which speaks to larger projects at this time.

Financing

Is there a finite deadline for PULSE funding? Will funds be absorbed?

- No – there will be a series of bond issuances, probably in semi-annual tranches.

What is considered short-term? Long-term?

- Short-term is 1-5 years and long-term is 6-30 years; terms are based on the project's useful life. There is typically a higher interest rate attached to longer-term financing.

Is this a true "pool" (i.e., implies cross-collateralization)?

- There will not be any cross-collateralization – each loan will be made based on the underlying credit of the borrower and the bond insurance costs will reflect this.

What fees are required under your program?

- There is a \$1,000 non-refundable application fee due when the application is submitted.

What does the estimated 1.5% cost of issuance cover?

- Bond counsel, PULSE program financial advisor, underwriter's discount, trustee expenses, rating agencies, CPA issuance fee (if any), etc.

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What pledging requirements will CPA have? How will the loan be categorized?

- This will be a general obligation on the part of the borrower and will be structured as a non-appropriation lease.

***What is the difference between a lease and a loan?**

- The difference between a lease and a loan is the underlying legal obligation, the obligation to repay. A lease is a periodic payment for the use and possession of property and/or equipment. A loan is an absolute obligation to repay money. The primary difference is that a lease requires the identification of assets to lease since those assets are generally pledged as collateral.
- For borrowers, beyond the legal structure, there is little differentiation between the two.

***Why may some entities need to utilize a lease versus a loan?**

- Generally, cities, counties and school districts use leases as an alternative to initiating a public vote requirement for a “loan”. Most State agencies may also utilize leases. Still other local entities, due to statutory debt limits, may also choose to utilize lease financing. Non-profit borrowers can borrow directly through loans.

***What is the nature of a lease-leaseback arrangement?**

- Under a lease-leaseback arrangement, the CPA would lease the site of a real property improvement from the borrower and, subsequently, lease it back to the borrower. In an equipment deal, the CPA would simply lease the equipment to the borrower. In either case, the borrower would agree to construct, acquire, and install the project/equipment as agent for the CPA. The borrower will likely enter into design/build, fixed price contracts with contractors/vendors.

***Is there a distinction between a lease and a loan if a borrower wants to take funds in stages?**

- Yes, with a loan there is an absolute obligation to repay the loan on the part of the borrower. Because of this absolute obligation to repay, funds can be drawn in increments.
- A financing lease for a municipality is a “contingent obligation”, which can only be paid if the municipality has use and possession of the property or leased assets. This means that the project has to have been constructed for the municipality to repay the lease obligation. For this reason, and the resulting need to pledge this asset as security for the lease, a single lease cannot finance a series of projects undertaken in different time periods.

Which project-related costs are financeable?

- Project development “soft costs”, including feasibility studies, engineering design, performance guarantees and equipment warranties, and project management.
- Equipment and construction costs.

***How will “soft-costs” be financed?**

- Project(s), approvals and costs should be fully identified before a project is financed. The bond insurer will require some level of comfort that any project can be delivered for the costs outlined. Long-term debt or leases are not generally used to advance funds for front-end “soft costs” such as preliminary engineering.

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However, for leases, it is customary that borrowers capitalize the costs and reimburse themselves for these types of costs from the financing proceeds.

***In a lease arrangement, can the borrower utilize funds for the construction period?**

- For leases, interest is often capitalized during construction. The project must be completed before capitalized interest runs out. The insurer or investors will generally require that interest be capitalized approximately six months beyond the expected project in-service date.
- Interest can be funded through a capitalized interest fund provided from CPA bond proceeds or from the borrowers own funds. In addition, to fund construction costs, CPA and the bond insurer must have a high degree of confidence, through a guaranteed construction contract, purchase order, or a similar instrument, that the project can be built on time and within budget. Alternatively, an entity could designate another property or asset as the leased item. The objective is to ensure that the lease payments are made whether or not the project is completed on time.

***Who is going to be contractually responsible for design, installation, ownership, and operation and guaranteed performance of the equipment during the capital repayment period?**

- Borrowers will be responsible for design, installation, ownership, operation, and guaranteed performance of the equipment. The CPA is providing a conduit financing vehicle and offers no financial support, performance guarantees, or representations regarding project or performance.

***What type of collateral will borrowers need to post in order to sign design/build/performance contracts?**

- Since the requirement to repay a loan is not contingent, there is no additional collateral required. However, since a lease is the most likely financing vehicle, it requires the identification of leased assets. The leased assets should have a fair market value equal to, or greater than, the financed amount; these should be co-terminus with the financing term. The leased assets then serve as collateral for the financing.
- In circumstances where the bond insurer may question the sufficiency of the assets, the bond insurer may request identification of an additional revenue source to secure the lease payments.

***Will a “sinking fund” or other reserved funds be available for future O&M expenditures?**

- No, funds must be utilized within 18 months or 3 years of commitment. (There are different rules attached to each time period.)

***What degree of review will the bond insurer seek?**

- The bond insurer will seek reasonable assurances that the project(s) will be built on time and within budget, or that other resources are available or committed to do so. The bond insurer will likely want information regarding the general contractor of each project, as well as some assurance (e.g., from the construction management agreement) that the contractor has the ability and incentives to get the project completed on time, and within budget.

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***What provisions will be in place to amend initial cost and saving estimates if the final project cost differs from the amount borrowed?**

- It is relatively straightforward to contain provisions in a loan or lease financing that excess proceeds will be applied to the repayment of the financing obligation. To avoid a situation where there are insufficient funds to complete the project, the CPA and the bond insurer will want assurances that the project can be completed on time and within budget.

***How will energy efficiency measures be secured in a lease transaction?**

- The CPA and the bond insurer will need assurances that the asset has not been previously leased or pledged. If this is not the case, a substitute asset will need to be pledged.

***Who determines the project's "expected life"?**

- The borrower usually certifies the useful life. If multiple projects are involved in one borrower's loan or lease and a single loan/lease is used, the useful life will be calculated as an average of the composite projects/measures/technologies.

Process

***What is the approval process?**

- Upon receipt of applications (in their entirety), the CPA will perform initial reviews; the bond insurer will conduct primary credit analysis. Additional due diligence will be conducted by the underwriter.

***How long will the approval process take?**

- Upon receipt of complete information with the application, we anticipate a 60-90 day approval process. We anticipate multiple bond issuances annually, so if applications are submitted outside of a particular financing pool, we can include those in the next issuance.

***How soon and in what manner will funds be drawn?**

- Funds can generally be drawn as soon as the financing is closed. Bond proceeds will be deposited with the trustee. Borrowers then generally submit payment requisitions to the trustee in order for funds to be released from the project fund.

***To whom will borrower payments be made?**

- Payments will be made to the CPA-designated trustee.

***What types of documents will you draft and when will they be available for review?**

- The application is available at www.cpowerauthority.ca.gov/financing/PULSE.htm.
- Bond counsel will draft legal documents for each borrower.